REMARKS

Reconsideration and withdrawal of the rejections set forth in the above-mentioned Office Action in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 25-30 are now pending in this application, with Claims 25, 29 and 30 being independent. Claims 1-24 have been cancelled without prejudice. Claims 25-30 are newly-presented herein. Support for the features of the independent claims can be found in the specification at least with regard to the description of steps 1103-1105 in Figure 11. Of course, the claims are not intended to be limited in scope to this preferred embodiment.

Initially, Applicants note with appreciation the indication that Claims 7, 8 and 16-18 recite allowable subject matter. However, these claims have been cancelled without prejudice or disclaimer.

Claims 21-24 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Claim 9 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claims 1-6, 10-15, and 19-24 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,697,502 (Luo) in view of U.S. Patent No. 5,636,292 (Rhoads). Claims 1-24 have been cancelled without prejudice. Accordingly, the §§ 101, 112, and 103 rejections are deemed moot. Nevertheless, newly-presented Claims 25-30 are believed to be in full compliance with §§ 101 and 112 and are believed to be patentable over the citations of record for the following reasons.

Luo relates to an image processing method that can detect human figures in a digital image. Luo can detect candidate regions of human skin color, detect candidate regions of human faces, and construct a human figure by grouping regions in the vicinity of the face region according to a graphical model of the human figure. Based on average color values of human skin and an average color of a connected region, a skin probability is calculated and the region is determined to be a skin region if the probability is greater than a predetermined threshold. The Office Action suggests that the term "portrait probability" is "the probability that the region contains a face." However, the present invention calculates both a human face probability and portrait probability, and judges whether the image is a portrait by comparing the portrait probability with threshold value. Such features are not disclosed or suggested by Luo.

Thus, Luo fails to disclose or suggest at least identifying a candidate for a human face region within an image and calculating a human face probability that the candidate for the human face region represents a human face, multiplying a value corresponding to the human face probability and calculating a portrait probability that the image is a portrait, and judging whether the image is a portrait by comparing the portrait probability with a threshold value, as is recited in independent Claims 25, 29 and 30.

Thus, Luo fails to disclose or suggest important features of the present invention recited in the independent claims.

Rhoads was cited for teaching attaching information to an image by using a header. However, Rhoads is not believed to remedy the deficiencies of Luo noted with respect to the independent claims.

Thus, independent Claims 25, 29 and 30 are patentable over the citations of record. Reconsideration and withdrawal of the § 103 rejection are requested.

For the foregoing reasons, Applicant respectfully submits that the present invention is patentably defined by independent Claims 25, 29 and 30. Dependent Claims 26-28 are also allowable, in their own right, for defining features of the present invention in addition to those recited in independent Claim 25. Individual consideration of the dependent claims is requested.

Applicants submit that the present application is in condition for allowance. Favorable reconsideration, withdrawal of the rejections set forth in the above-noted Office Action, and an early Notice of Allowability are requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Mark A. Williamson/

_____

Mark A. Williamson
Attorney for Applicants
Registration No. 33,628

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

FCHS_WS 1573042v1